IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.A.ABDUL GAFOOR
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 9TH FEBRUARY 2007 / 20TH MAGHA 1928

WP(C).No. 31633 of 2004(S)

{O.A.NO.772/2001 OF THE CENTRAL ADMINISTRATIVE TRIBUNAL,ERNAKULAM BENCH}
.....

PETITIONER:

K.N.BHASKARA PANICKER,
S/O. KUNCHUNNI NAIR, EX-DEPARTMENTAL DELIVERY AGENT, THOTTIL VEEDU, ABDUL RAHMAN NAGAR P.O., TIRURANGADI 676 305.

BY ADV. SRI.M.V.SOMARAJAN

RESPONDENTS:
---

1. THE SUB DIVISIONAL INSPECTOR (P), KOTTAKKAL SUB DIVISION (POSTAL), KOTTAKKAL 676 503.

2. THE INSPECTOR OF POST OFFICES (PG), TIRUR DIVISION, TIRUR 676 104.

3. THE SUPERINTENDENT OF POST OFFICES, TIRUR DIVISION, TIRUR 676 104.

4. THE POSTMASTER GENERAL, NORTHERN POSTAL REGION, KOZHIKODE 673 011.

5. UNION OF INDIA, REPRESENTED BY THE SECRETARY POST, GOVERNMENT OF INDIA, MINISTRY OF COMMUNICATIONS, NEW DELHI.

6. CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH, ERNAKULAM.

BY ADV. SRI.C.S.ABDUL SAMMAD, ADDL.CGSC
R5 BY ADV.SRI.JOHN VARGHESE, ASSISTANT SG

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS:

EXT.P1: TRUE COPY OF CHARGE MEMO NO.C1/ADA/1/97 DATED 24.10.1997 ISSUED BY THE 2ND RESPONDENT.

EXT.P2: TRUE COPY OF THE INQUIRY REPORT NO.INQ/4/97 DATED 5-7-99 SUBMITTED BY THE INQUIRY OFFICER.

EXT.P3: TRUE COPY OF ORDER NO.C1/ADA/1/97 DATED 28.10.99 ISSUED BY THE 2ND RESPONDENT.

EXT.P4: TRUE COPY OF THE APPEAL SUBMITTED BY THERE PETITIONER ON 1.12.99 TO THE 3RD RESPONDENT.

EXT.P5: TRUE COPY OF THE APPELLATE ORDER VIDE MEMO NO.WP/APPEAL/12/99 DATED 1-2-2000 ISSUED BY 3RD RESPONDENT.

EXT.P6: TRUE COPY OF THE REVISIONAL ORDER VIDE MEMO NO.STA/38-3/4/2000 DATED 31-10-2000 ISSUED BY THE 4TH RESPONDENT.

EXT.P7: TRUE COPY OF THE ORDER IN O.A.NO.772/01 DISMISSING THE APPLICATION NO.28-11-2003 BY THE CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH.

RESPONDENTS' EXHIBITS: NIL

//true copy//

P.S. To Judge

sk/-

K.A.ABDUL GAFOOR &
ANTONY DOMINIC, JJ.

W.P.(C).No.31633 of 2004 S

Dated this the 9th day of February, 2007.

JUDGMENT

Abdul Gafoor, J.

Disciplinary proceedings were initiated against the petitioner. Inquiry was conducted. He was found guilty. Disciplinary Authority imposed a penalty of dismissal from service. Appeal did not succeed. His revision also did have the same fate. The matter was carried to the Central Administrative Tribunal, Ernakulam. The tribunal did not accept the challenge against the order of imposition of penalty of dismissal from service and dismissed the original application as per Ext.P7 order. Now the decision of the Central Administrative Tribunal is under challenge in this writ petition.

2. Three counts of charges were levelled against the petitioner, who was working as an Extra Departmental Agent. All the charges were relating to delivery of

registered letters to persons other than the addressees. Ext.P3 is the order of the disciplinary authority.

3. The registered letters in question have been proved during the Inquiry as has been delivered to persons other than the addressees. It has also been proved during the Inquiry that the addressees were not available. It is also borne out by records in respect of the inquiry that, he himself has conceded before the Postal Inspector that he had delivered the three registered letters to persons other than the addressees.

4. It is submitted by the petitioner that such a statement has been obtained under compulsion. It is also further revealed, with regard to another registered letter issued by the Department in the name of the same addressee and that letter was returned back to the sender with the endorsement by the very same delinquent that the addressee was not available. That was conclusive proof that the earlier registered letter which forms the basis for the

second charge was delivered to a person other than the addressee. Similar is the case regarding the third letter as well. In such circumstances, the report of the Inquiry Officer as well as the order of the disciplinary authority is based on, prima facie, evidence finding that the petitioner was guilty of the charges. There is no reason to interfere with such findings on the ground that there is no valid evidence to prove the charges.

5. The other contention is that there is procedural irregularity insofar as the Inquiring Authority was an officer higher in rank than the disciplinary authority and therefore, the disciplinary authority was bound to swallow the findings of the Inquiry Officer without independent consideration of the report of Inquiry. There is no rule prohibiting appointment of an Inquiry Officer higher in rank than the disciplinary authority.

6. The contention that the findings of the Inquiry Officer was perverse also will not lie in the light of the

detailed consideration not only by the Inquiring authority, but even by the disciplinary authority. The tribunal has also examined threadbare the different factual aspects relating to the case and has come to the conclusion in paragraph 9 that there is no perversity in the finding that the petitioner was guilty of the charges levelled against him.

7. In respect of a person, who had delivered three registered letters addressed to three different addressees from the passport office, obviously containing valid documents like passports, to persons other than the addressees, the imposition of a penalty of dismissal from service cannot be stated to be unjustified to invite interference on that count as well.

Writ petition fails, dismissed.

Sd/-
(K.A.ABDUL GAFOOR)
JUDGE

Sd/-
(ANTONY DOMINIC)
JUDGE

sk/

//true copy//

K.A.ABDUL GAFOOR &
ANTONY DOMINIC, JJ.

W.P.(C).No.31633 of 2004 S

JUDGMENT

9th February, 2007.